IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

J. B. RAINES, JR.,

Plaintiff,

v. NO. 1:88CV319-S-O

CITY OF STARKVILLE, et al.,

Defendants.

OPINION

The history among these parties has been lengthy and contentious and has been played out both in this court and in the state courts. The only issues remaining in this particular action involve defendants' motions for sanctions, which this court intends to resolve with the issuance of this opinion.

BACKGROUND

I.

The facts which brought matters to this point have been, for the most part, fully explored in two opinions from this court and an appellate opinion from the Fifth Circuit. Drawing primarily from those sources, the court notes the high points as follows:

The underlying impetus for this action was a title dispute between John B. Raines, Jr., and L. E. Spruill over a parcel of land which the City of Starkville had originally deeded to Raines. Although all state court proceedings were resolved in Spruill's

favor, Raines, who had been in the auto salvage business for over thirty years, refused to accept this fact and remove the salvage vehicles remaining on the property.

The bankruptcy court was also involved in Raines' affairs. Of critical importance to this case was the bankruptcy trustee's scheduled "car crush" to dispose of the remainder of Raines' salvage vehicles, which, as the only assets of the bankruptcy estate, were to be sold as scrap metal. The crush was set for November 18, 1987, and was to be conducted on the disputed Spruill property.

Although Raines had been warned by the mayor that he would be arrested if he attempted to interfere, he did just that by blocking with his car the path of a bulldozer which had been employed by Spruill to spread dirt as the old cars were removed. Raines also called the Starkville Police Department and asked that an officer be dispatched to the scene. When Officer Stanley Bowles arrived and realized what Raines was doing, he asked Raines to stop and to step out of the car. Raines, who was cursing and yelling, refused to obey Bowles' desist commands. Concerned that Raines was endangering others, Bowles and a second officer, Stanley Maiden, arrested Raines, after considerable resistance, and charged him with disorderly conduct, assault, and resisting arrest.[1]

[1]Raines was found not guilty of these charges.

Three days later, Raines returned to the property with plans to remove some remaining vehicles. Spruill, who had heard of Raines' plans, contacted the city attorney who in turn requested two police officers to inform Raines that he would be arrested if he proceeded. In Raines' eyes, all of these events evidenced a conspiracy between Spruill and the city to deprive him of his constitutional and statutory rights.

II.

This cause was initiated with the filing of a complaint on November 17, 1988. At that time, Raines alleged that the defendants--which included the City of Starkville, its mayor, seven members of the Starkville Board of Aldermen, six policemen, and Spruill--violated his rights under the Fourth, Fifth, Sixth, Eighth, Ninth, and Fourteenth Amendments of the United States Constitution, RICO, and state law and requested, among other things, 3.1 million dollars in damages. The next day, the complaint was amended to delete all references to RICO and some of the state law claims, to add two additional defendants, and to increase the requested damages by one million dollars. Both documents were signed by Honorable Jeffery M. Navarro and George Chesteen, by Navarro with permission.[2]

[2]Chesteen is Raines' nephew and, at that time, practiced in Colorado.

In early December, 1988, the magistrate judge granted the municipal defendants (which includes everyone except Spruill) a one-month extension of time to answer the amended complaint or otherwise plead. Spruill took a different path, answering the complaint and asserting a counterclaim for malicious prosecution.

By letter dated December 29, 1988, lead counsel for the municipal defendants, Honorable W. Thomas Siler, Jr., sent Navarro the first of several Thomas letters.[3] Siler advised Navarro that from his initial investigation, "[i]t is my opinion that portions of the complaints...are absolutely devoid of any legal or factual basis whatsoever, and, therefore, are not 'warranted by existing law' as required by Rule 11" and asked him to dismiss the lawsuit voluntarily. Siler then particularized the eight perceived failings of the complaints "[s]o there [would be] no misunderstandings as to how serious I am about this request...." These included: (1) the failure to plead specific facts sufficient to overcome the individual defendants' qualified immunity as required by Elliott v. Perez[4]; (2) the lack of a factual or legal

[3]See Thomas v. Capital Security Services, Inc., 836 F.2d 866, 879-81 (5th Cir. 1988). The letter was not addressed to Chesteen, nor was it copied to him.

[4]Siler further elaborated by pointing out that neither defendant Stacy nor Sisk was present during Raines' arrest and that the officers who were present had been called there by Raines himself. He also invited Navarro to "review the law regarding the Amendments [pled in the complaints] and the extent of their protections."

basis for the interference with business count and the due process claim; (3) numerous statute of limitations problems; and (4) the legal impossibility of collecting punitive damages from the city. Siler closed the letter with a warning that if he was forced to file a motion to dismiss or for summary judgment and prevailed, he would "seek sanctions against [Navarro] personally."

Following that letter, Navarro and Siler discussed the lawsuit, which prompted Siler to write Navarro a second letter on January 19, 1989.[5] This letter pointed to the numerous unrelated state law claims which should be resolved in state court, the res judicata problems associated with certain counts, and the lack of a factual or legal basis underlying other allegations. Siler concluded as he had done previously with a warning that "if we are forced to go through a great deal of expense and effort, my clients will look to you, rather than your client[], to satisfy our attorney's fees and expenses."

On February 24, 1989, counsel for Spruill, Honorable H. Russell Rogers, wrote Navarro questioning him about the extent of the charges against his client and requesting full and complete responses to certain interrogatories. He closed the letter with the following: "[I]t is obvious that joining Spruill in this

[5]The day before, the magistrate judge had signed an agreed order from Navarro and Siler granting municipal defendants a second extension of time in which to answer or otherwise plead. That order indicated that plaintiff was planning to file a second amended complaint shortly.

lawsuit was without any basis. I can assure you that if you continue this action against Spruill, I will at the appropriate time seek sanctions under Rule 11 against both you and your clients, whomever they may be."[6]

On April 18, 1989, Raines filed a second amended complaint. This document, like the first two complaints, was signed by Navarro and Chesteen, by Navarro with permission. In it, Raines continued to invoke the protections of the Fourth, Fifth, Sixth, Eighth, Ninth, and Fourteenth Amendments and state law. He had, however, narrowed the focus of his complaint to claims of unlawful arrest,[7] use of unreasonable force, unreasonable interference with business,[8] and breach of warranty and unlawful taking.

Spruill and the municipal defendants immediately answered, with the latter also moving to dismiss counts IV and V of the complaint and the individual capacity claims against the Board of Aldermen and one of the police officers, John Outlaw. In an

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[6]This letter was not copied to Chesteen.

[7]In this count, Raines charged that Bowles and Maiden, "acting in conspiracy with and at the direction of" Spruill, Stacy, and Sisk, unlawfully arrested him on the day of the car crush.

[8]In this count, Raines alleged that Lindley, Sisk, and Christian "acting at the direction of and in conspiracy with" Sisk, Spruill, and Stacy, and the city "by and through" Stacy and the Board of Aldermen "interfered with Plaintiff's lawful business and prevented Plaintiff from taking measures to protect and enjoy his business and property." This count focused on the events occurring three days after the car crush.

opinion and orders issued on November 21, 1989, this court dismissed counts IV and V without prejudice "to the plaintiff's right to pursue in state court all causes of action the precise circumstances allow." Although the court refused to dismiss the individual capacity claims against the board and Outlaw, it authorized the municipal defendants to take Raines' deposition for the purpose of determining the individuals' entitlement to qualified immunity and directed Raines to explain why Outlaw, who was not mentioned in the body of the second amended complaint, should not be dismissed from this cause. The court also dismissed Spruill's counterclaim (which had been asserted in response to the first amended complaint, though not in response to the second) on the basis that a malicious prosecution action was premature. At that time, this court took the opportunity to warn Raines that "[i]f the instant complaint was signed in violation of Fed. R. Civ. P. 11, or Mr. Spruill prevails in the defense of the civil rights charges against him...then the appropriate remedy may be sought."

On January 5, 1990, Raines was deposed by defendants.[9] Only Navarro appeared to represent Raines. Three days later, Siler wrote Navarro and Chesteen asking them to dismiss the individual board members from this cause. As grounds for this request, Siler stated:

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[9]This was the first formal discovery in which any party engaged.

> Following the deposition of J. B. Raines...it became apparent that Mr. Raines was unable to provide any testimony or evidence whatsoever which supports his claims against [the board members]. Mr. Raines specifically testified that none of these individuals were present when he was arrested on November 18, 1987, that he had no evidence that they were directly involved in his arrest, and that none of them had ever threatened him with arrest. Based on this testimony, it is clear that plaintiff cannot satisfy the heightened pleadings requirement of Elliott v. Perez....

He concluded by giving Navarro and Chesteen notice "that if we are forced to spend additional time and money to have the individual defendants dismissed, we intend to vigorously pursue a motion for sanctions to recover all costs and expenses."

On January 31, 1990, Rogers wrote Navarro again, copying Chesteen on this occasion, and advised him of his intention to pursue Rule 11 sanctions if he did not dismiss Spruill from this case. Specifically, he stated:

> Since it now appears that discovery in this case is going to move ahead, I once again want to make it clear that if you persist in naming L. E. Spruill as a Defendant in this case I will at the appropriate time request Rule 11 sanctions against both you, Chesteen, and your client. Based upon your Responses to Interrogatories Propounded by L. E. Spruill and the testimony of J. B. Raines at his deposition on January 5, 1990, it is obvious that there existed no conspiracy between Spruill, Stacy, Sisk, and the City of Starkville.
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> So that there is no misunderstanding that you received appropriate notice of my intent to seek Rule 11 sanctions I am sending a copy of this letter to the presiding Judge....

Less than two weeks later, Raines, through Navarro, agreed to dismiss the individual board members as requested by the municipal defendants. That order was entered on February 12, 1990.

During the next six months, discovery proceeded, though slowly, with the parties exchanging interrogatories and requests for admissions and documents. Raines and the municipal defendants noticed several depositions during this time period; without a doubt, Navarro appeared at three of these.[10] The municipal defendants also designated their experts and amended their answer to assert a counterclaim on Bowles' behalf for injuries he allegedly sustained during the course of Raines' arrest, which Raines moved to dismiss.

On August 9, 1990, the court entered an agreed order dismissing count II as to Spruill.[11] Although Navarro maintains that this was the last document he signed in this cause, the record does not bear out that assertion. It is true, however, that from that date forward Navarro's role in this litigation was substantially limited.

On September 28, 1990, Chesteen wrote Honorable William I. Gault, Jr., who also represented the municipal defendants,

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[10]Navarro appeared at the depositions of Maiden and Bowles on May 21, 1990, and of Dr. D. C. Strange on August 7, 1990.

[11]The court is unsure why this course was necessary since Spruill was not mentioned in that count.

regarding settlement of this case. In it, he rejected the offer of the municipal defendants to forego seeking costs and sanctions against himself, Raines, and Navarro in exchange for dismissal before they filed a summary judgment motion. Chesteen explained:

> Upon a thorough application of the law to the facts in this case, we are convinced that neither party can prevail on a Motion for Summary Judgment and the costs of preparing the same is a needless expenditure of attorneys' fees....If our conclusion is correct, you will in all likelihood be precluded from seeking costs and sanctions as you stated to Mr. Navarro. In any event, it is doubtful Mr. Raines has the financial resources to satisfy any costs assessed to him.
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> * * *
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> We believe this case involves...the flagrant violation of personal and property rights protected by the laws of the United States as well as the State of Mississippi. For those reasons, it would be prudent not to underestimate our intent to vigorously prosecute this action as we shift from "defense" to "offense."
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> If this case is not settled, we anticipate that our discovery will exceed the time and costs expended to date by you in this case.

Navarro denies any knowledge of the contents of this letter prior to his receipt of it.

Three days later, the municipal defendants attempted to take Raines' deposition. When it was convened, Raines, with Navarro appearing in person and Chesteen, by telephone, "announced that he was under the influence of medication prescribed for a back problem and sought to have the deposition continued." Upon application for a ruling on whether the deposition should proceed, the magistrate judge found that Raines was indeed incapacitated but that he "was

aware of his...incapacity far enough in advance of the scheduled time for his deposition that he could have notified defense counsel...." The magistrate judge further found that Raines' failure to notify defense counsel of his condition "was unreasonable and without sufficient cause and that [he] should therefore pay the reasonable expenses incurred by defendants as a result of his said failure." This resulted in the imposition of sanctions against Raines in the amounts of $858.75 to the municipal defendants and $187.50 to Spruill "as the reasonable expenses of their participation in the abortive deposition proceedings of October 1, 1990...."

Within the next month, Chesteen noticed no less than seven depositions, which prompted three motions for protective orders and to quash, each of which was sustained. On October 29, 1990, Siler wrote Navarro and Chesteen a fourth letter, which was the second official Thomas letter. Of particular interest is the following paragraph:

> Another example of the bad faith conduct of Plaintiff's counsel in this case occurred on October 19, 1990, following the deposition of Municipal Defendant Terrance Christian. After the conclusion of Mr. Christian's deposition, Mr. Chesteen informed William Gault...that Plaintiff wished to dismiss his claims against Mr. Christian.[12] Mr. Gault responded that the Municipal

[12]Christian had testified that on the day of the car crush, he was riding with Outlaw but was not on duty or involved in any way with Raines' arrest and that on November 21, the day on which officers allegedly interfered with Raines' business, Christian never exited the patrol car.

> Defendants would not oppose the dismissal, but that Mr. Christian would not waive his rights to seek sanctions as well as any other rights and causes of action which may be available to him. Mr. Chesteen responded that "well, we will not dismiss the claims against Mr. Christian." Such action on the part of Mr. Chesteen in regard to Mr. Christian clearly indicates an "improper purpose" for pursuing the lawsuit against Mr. Christian, an act which is specifically prohibited by Fed. R. Civ. P. 11, as well as 28 U.S.C. § 1927.

Within a week, Chesteen filed a motion to seal this letter even though it was not a part of the official court file.[13] The court denied that motion. Chesteen subsequently noticed five depositions, which produced objections by some of the would-be deponents, and objected to the taking of his own deposition by the municipal defendants, which was denied.

During the first week of January, Spruill and the municipal defendants moved separately for summary judgment. Six days before Raines' response was due, Navarro moved to withdraw from futher representation of Raines. The magistrate judge, after conducting an in camera hearing "[b]ecause of the sensitive, private, and privileged nature of the facts and the communications relevant to the motion," allowed Navarro to withdraw. He "explicitly provided [however] that this order is not to be interpreted as relieving Mr. Navarro from any liability for sanctions under Rule 11...or otherwise which may already have been incurred." On that same

[13]Siler had indeed provided the court with a copy of the letter as required by Thomas, but it was not a part of the official court file until Chesteen attached to letter to the motion to seal.

date, Chesteen submitted a 132-page response, including supporting documents, to Spruill's motion for summary judgment and a 133-page response to the municipal defendants' motion for summary judgment, which included a motion for partial summary judgment against Officers Bowles and Maiden.

Towards the end of this litigation, trial was set and a final pretrial conference held. A third attorney, J. Bruce Teichman, appeared on Raines' behalf and signed the final pretrial order.[14] One week later, this court granted the motions of Spruill and the municipal defendants for summary judgment, denied Raines' motion for partial summary judgment, and dismissed Bowles' counterclaim. In the court's opinion, it noted first that, with regard to the unlawful arrest claim, "[p]laintiff's response to the summary judgment motion basically consists of 'elaborate arguments regarding...[Mississipp misdemeanor] statutes, supplemented by an extended discourse upon [Mississippi breach of the peace] jurisprudence.'" Raines v. City of Starkville, No. EC88-319-S-O, slip op. at 4 (N.D. Miss. Aug. 5, 1991). The court granted the municipal defendants' motion on that claim, concluding that the "facts of this confrontation viewed in any light (even those most favorable to plaintiff) have no legal significance for a reasonable jury in federal court to consider" and finding that "plaintiff's

[14]Teichman was admitted pro hac vice five days before the final pretrial conference.

motion for partial summary judgment on his claim against Bowles and Maiden is incredible." Id. at 5, 5 n.10.

Raines' excessive use of force claim "require[d] only brief attention," as he failed to demonstrate "that he sustained a severe injury, or, in light of the resistance he offered, that the force used was unreasonable." Id. at 5. The court noted that Raines "virtually admit[ted] his failure" to meet the constitutional standard and that "[a]rguing simply that the injury was unreasonable is not satisfactory." Id. at 6 n.11.

As to the final claim, which this court described as "the most vague and confusing of the allegations," id. at 6, the court found that "[t]here is no justification to maintaining this action relative to an interference with business claim." Id. In reaching that conclusion, the court explained:

> Lacking is any reasonable evidence to overcome the officers' qualified immunity defense or to establish a municipal policy. Further, the seriousness of pursing an action against defendant Spruill is questionable inasmuch as plaintiff continues to focus on the actions of the police. It is not enough to avoid summary judgment by relying on a conclusory conspiracy charge that has neither a well-founded factual basis nor makes any legal sense.

Id. at 6-7. The court also characterized Raines' "attempt to catch defendant Christian in a wide net [as] especially and patently frivolous" and warned Raines that "utilizing the shotgun approach as to defendants indirectly involved (i.e., liability dependent

upon anyone being within sight) is especially dangerous in a section 1983 action." Id. at 6 n.13.

The court denied Raines' subsequent motion for reconsideration and sanctioned Chesteen in the amount of $250.00 for filing a "patently frivolous" Rule 11 motion in violation of Rule 8 of the Uniform Local Rules. Raines' appeal of the court's summary dismissal of this action was unsuccessful, see Raines v. City of Starkville, No. 91-7082, slip op. (5th Cir. Feb. 3, 1993), thereby bringing the court to the point of now considering the defendants' separate motions for sanctions. The municipal defendants base their sanctions request on Rule 11, 28 U.S.C. § 1927, and the court's inherent power; Spruill invokes Rule 11 only. All defendants also seek an award of attorneys' fees as prevailing parties pursuant to 42 U.S.C. § 1988.

III.

The history of this litigation from the perspective of the plaintiff and his counsel follows.

A.

Navarro began representing Raines in 1985, when he filed a Chapter 13 bankruptcy petition on Raines' behalf. At that time, Raines was also involved in a state court land title dispute with the City of Starkville and Spruill in which Raines was represented by other counsel. In due course, that case was stayed by reason of the bankruptcy. When the stay was lifted on Spruill's motion,

Raines became dissatisfied with his state court attorney, who withdrew, and Navarro undertook Raines' representation in that case as well.

In October, 1987, the chancery court declared Spruill the sole owner of the disputed property. By this time, the Chapter 13 had been converted to a Chapter 7, and the infamous car crush was scheduled by the bankruptcy trustee. On the day before the car crush, Navarro filed a Chapter 11 bankruptcy petition in an effort to protect Raines' assets located on the property, namely, the salvage vehicles.

After Raines was arrested at the scene of the car crush, Navarro discussed with Raines his potential § 1983 claim against the City of Starkville. At that time, he explained to Raines that a one-year statute of limitations governed this kind of action. According to Navarro, Raines, prompted by Chesteen, insisted on filing a RICO action to overturn the decisions in the prior land dispute cases and asked Navarro to carry out his wishes. As he was unfamiliar with RICO, Navarro refused, and Chesteen prepared a RICO complaint against the city and Spruill.

On September 26, 1988, Navarro wrote Chesteen, with a copy to Raines, reminding him of the pressing deadline for filing a § 1983 complaint regarding Raines' arrest. Navarro also contacted attorneys familiar with RICO litigation to see if any were

interested in undertaking a RICO action on Raines' behalf. None were.

On November 15, 1988, Navarro again advised Chesteen that he would not file the RICO action that Chesteen had prepared. Navarro maintains that Chesteen threatened him with a bar complaint and a lawsuit if he did not file the RICO complaint. The next day, Navarro, via fax, formally refused to file the RICO action and advised Chesteen that he would file a revised § 1983 complaint on Raines' behalf but only because of the running of the statute of limitations. On that same day, Chesteen faxed Navarro a letter threatening legal action if Navarro did not file the RICO action. Chesteen's letter prompted Navarro to seek advice from fellow attorneys regarding his responsibilities in this situation. At some point that day, Chesteen faxed Navarro a second letter promising him that if he would file the complaint that Chesteen had prepared, he could then withdraw and be indemnified for any Rule 11 sanctions which might arise. In response, Navarro advised Chesteen that he would file Chesteen's complain with his own name stricken or he would file a revised complaint which he had prepared. Chesteen agreed to the latter proposal, and with the understanding that the suit was being filed only to stop the running of the statute of limitations and that Navarro would be permitted to withdraw when Raines had located other counsel, Navarro filed the revised § 1983 complaint.

The first two Siler letters followed. On February 23, 1989, Navarro wrote Chesteen and Raines proposing to amend the complaint in response to Siler's demands, and shortly thereafter, he received Rogers' first Rule 11 letter. Over a month later, the second amended complaint was filed, and by the end of the year, the court had dismissed counts IV and V of that complaint.

In January, 1990, Navarro received Siler's third letter, which was addressed to Chesteen also, requesting dismissal of the individual board members and Rogers' second letter requesting dismissal of Spruill. On September 28, 1990, Chesteen, without consulting Navarro, wrote Gault and rejected the offer of the municipal defendants to forego Rule 11 sanctions if Raines would dismiss this action. Some time during September or October, 1990, Chesteen admonished Navarro not to discuss this case with Raines.

From October, 1990, until January, 1991, Navarro wrote Chesteen and attempted to contact him by telephone. Chesteen never responded to his letters or returned his calls. During this time, Navarro was defending Raines in a zoning suit filed by the city in state court; Honorable Gary Goodwin was representing the conservator for Raines' wife. The city offered to dismiss the case if the Raineses would dismiss their counterclaim. Navarro and Goodwin agreed that this was a reasonable deal; therefore, Navarro urged Raines to accept the offer. Although Chesteen was not representing Raines in the zoning case, he wrote Navarro and

Goodwin and threatened to hold them personally liable if they did not conduct that suit as he and Raines saw fit.

Thereafter, Chesteen and Raines refused to permit Navarro to withdraw from either the state court zoning case or the instant proceedinigs. On January 29, 1991, Navarro called the Mississippi State Bar requesting advice regarding withdrawal and was advised to request an in camera hearing. In response, Navarro wrote Chesteen and Raines a letter advising them that he was withdrawing from both cases and pointing out that Chesteen had rejected the offer of the municipal defendants to forego Rule 11 sanctions in exchange for dismissal without consultation. Navarro then moved to withdraw from both cases.

On February 7, 1991, Magistrate Judge Orlansky conducted a telephone conference with Navarro and Chesteen only. Although Raines, through Chesteen, opposed Navarro's motion, the magistrate judge allowed Navarro to withdraw and placed the record of the hearing under seal. On February 12, 1991, Navarro notified Raines and Chesteen of his effective withdrawal from this cause.

Before Navarro's withdrawal, defendants had filed separate motions for summary judgment. On the day Navarro withdrew, Chesteen filed Raines' responses to those motions and a cross-motion for partial summary judgment without consultation or assistance from Navarro. Later, Chesteen faxed Navarro a copy of

this court's opinion and order granting summary judgment. Defendants' motions for sanctions followed.

Navarro denies that he should be sanctioned for his conduct in this litigation, arguing that he was not properly afforded due process, that defendants failed to request sanctions timely or to mitigate their fees and expenses, and that sanctions are not warranted under the law.

B.

Chesteen's version of the facts leading up to the filing of the complaint are as follows: Raines and Navarro called Chesteen about an article regarding Raines' arrest which appeared in a local newspaper. Navarro suggested that a § 1983 might be in order, indicated that he would be interested in filing such an action, and represented that he was fully familiar with § 1983 litigation. As Chesteen had no experience in that area of the law, he advised Navarro that "we would have to rely on his judgment as lead counsel." Chesteen states that Navarro "insisted on being the quarterback and in making all substantive decisions regarding the litigation." Chesteen does agree that he and Raines had previously urged Navarro to file a RICO suit against the city which Navarro refused to do. According to Chesteen, Navarro represented to him that he had discussed the case with several other attorneys who engaged in § 1983 litigation and "that all agreed that the claims of Raines against the City of Starkville and Spruill were

reasonable and had legal merit." Navarro also represented to him that the statute of limitations on the § 1983 claim was one day short of expiring. In short, Chesteen "relied on Navarro's judgment and investigation of the facts and laws in this case."

When Navarro was allowed to withdraw, Chesteen was left on his own although he did not have the necessary § 1983 experience. However, he "relied on the fact that Navarro had represented to [him] that he had made a reasonable inquiry into the facts and law of this case prior to signing the complaint." Chesteen also hired another attorney to help him who "assured [him] that in fact Raines did have valid causes of action...." Chesteen also states, "I believe that I had a professional responsibility to J. B. Raines to make sure that his disagreements with attorney Navarro did not affect the viability of the lawsuit which had been filed" and denies "categorically, that I directed the litigation on behalf of J. B. Raines."

Chesteen disputes defendants' motions on the grounds that he did not sign any of the complaints and that he relied on Navarro's prefiling investigation for his later positions in the case; that after Navarro's withdrawal, he had a fiduciary obligation to Raines, who did not wish to dismiss this cause, to continue the representation; and that defendants have failed to show bad faith conduct and are improperly seeking compensation, not deterrence.

C.

Raines' version of the facts, which was contained in an affidavit attached to Chesteen's response, not his own, is as follows:

In 1988, Raines contacted Navarro about filing a RICO action against the City of Starkville. Navarro refused "after we had spent considerable time and energy in preparation for it." Instead, Navarro suggested that they file a § 1983 claim against the city for violation of various constitutional rights. That action was filed "one day before Navarro told me that the statute of limitation was to run." Before filing the action, though, Raines contacted his nephew, Chesteen, requesting that he act as co-counsel. According to Raines, he and Chesteen "relied on Navarro's investigation of the facts and the law in this case...." He echoes Chesteen's characterization of Navarro's role as the "'quarterback' in making all substantive decisions regarding this case." Raines reiterates the position he has held all along: "At no time did I ever agree to dismiss my causes of action which were filed by Jeff Navarro on my behalf, nor would I have agreed to any dismissal of said actions voluntarily. In my view, the actions were correct and I should have been granted judgment against each of the defendants."

Raines' response to defendants' motions is limited to an adoption of the briefs and responses filed by Navarro and Chesteen as "nothing more could be added...at this time...."

DISCUSSION

I. Rule 11

A.

At the time this litigation was underway, Rule 11 provided, in pertinent part:

> The signature of an attorney...constitutes a certificate by the signer that the signer has read the pleading, motion, or other paper; that to the best of the signer's knowledge, information, and belief formed after a reasonable inquiry it is well-grounded in fact and is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and that it is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation....If a pleading, motion, or other paper is signed in violation of this rule, the court...shall impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee.

Fed. R. Civ. P. 11.[15] The Fifth Circuit has interpreted this rule to impose three affirmative duties with which an attorney or litigant certifies he has complied by signing a pleading, motion, or other document. These duties are

> (1) that the attorney has conducted a reasonable inquiry into the facts which support the document;

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[15]Since the conduct at issue here occurred prior to the effective date of the amendments to Rule 11 (December 1, 1993), the newly amended rule does not apply. Childs v. State Farm Mutual Automobile Insurance Co., 29 F.3d 1018, 1023 n.17 (5th Cir. 1994).

> (2) that the attorney has conducted a reasonable inquiry into the law such that the document embodies existing legal principles or a good faith argument for the extension, modification, or reversal of existing law; and
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> (3) that the motion is not interposed for purposes of delay, harassment, or increasing the costs of litigation.

Thomas v. Capital Security Services, Inc., 836 F.2d 866, 874 (5th Cir. 1988).[16] Compliance with these affirmative duties is measured as of the time the document is signed. Childs v. State Farm Mutual Automobile Insurance, Co., 29 F.3d 1018, 1024 (5th Cir. 1994). As stated by Childs,

> [T]he Thomas Court explained that liability for signing a document was similar to a snapshot. Courts would focus on the instant the picture was taken--when the signature was placed on the document. Liability under Rule 11 would only be assessed if at that instant in time the attorney or litigant was in violation of the rule....Virtually all suits will require a series of filings and Rule 11 applies to each and every paper signed during the course of the proceedings. Accordingly, if facts are discovered that show that there is no longer a good faith basis for a position taken by a party, a pleading, motion, or other paper signed after those facts come to light reaffirming that position can be the basis of a violation of the rule.

Childs, 29 F.3d at 1024 n.18.

"[T]he standard under which an attorney is measured is an objective, not subjective, standard of reasonableness under the circumstances. An attorney's good faith is no longer enough to protect him from Rule 11 sanctions." Id. at 1024. In determining

[16]Thomas is the seminal Rule 11 decision in the Fifth Circuit.

whether an attorney has made a reasonable factual inquiry, a court may consider the following factors:

> (1) the time available to the signer for investigation;
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> (2) the extent of the attorney's reliance upon his client for the factual support of the document;
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> (3) the feasibility of a prefiling investigation;
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> (4) whether the signing attorney accepted the case from another member of the bar;
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> (5) the complexity of the factual and legal issues; and
>
> (6) the extent to which development of the factual circumstances underlying the claim requires discovery.

Smith v. Our Lady of the Lake Hospital, Inc., 960 F.2d 439, 444 (5th Cir. 1992). In determining the reasonableness of the legal inquiry, the court may consider "the time available to the attorney; the plausibility of the legal view contained in the document...and the complexity of the legal and factual issues raised." Smith, 960 F.2d at 444. "Rule 11 does not require that the legal theory espoused in a filing prevail. The essential issue is whether the signatories of [the] motion fulfilled their duty of reasonable inquiry into the relevant law....Even if erroneous, a legal posture does not violate Rule 11 unless is is 'unreasonable from the point of view both of existing law and of its possible extension, modification, or reversal.'" CJC Holding, Inc. v. Wright & Lato, Inc., 989 F.2d 791, 793 (5th Cir. 1993) (footnotes omitted). "A conclusory allegation contrary to current jurisprudence that is made without any support whatsoever does not

represent a good faith argument to modify existing law." Spiller v. Ella Smithers Geriatric Center, 919 F.2d 339, 346 (5th Cir. 1990); see also Smith International, Inc. v. Texas Commerce Bank, 844 F.2d 1193, 1199 (5th Cir. 1988) (Rule 11 does not allow argument for extension, modification, or reversal of existing law to be made on nothing more than subjective good faith).

"Even if a party's motion is well grounded in fact and warranted by existing law, the second prong of rule 11 provides that it may be sanctionable if it is 'interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.'" Sheets v. Yamaha Motors Corp., U.S.A., 891 F.2d 533, 537 (5th Cir. 1990). "Although the filing of a paper for an improper purpose is not immunized from rule 11 sanctions simply because it is well grounded in fact and law, only under unusual circumstances--such as the filing of excessive motions--should the filing of such a motion constitute sanctionable conduct." Sheets, 891 F.2d at 538. "Repeat litigation of identical claims over identical subject matter may support an inference that the litigation was meant to harass opposing parties." St. Amant v. Bernard, 859 F.2d 379, 384 (5th Cir. 1988).

Furthermore, Rule 11 "clearly allows district courts the discretion in appropriate cases to impose sanctions against non-signing represented parties for violations of the rule by their

attorneys," Topalian v. Ehrman, 3 F.3d 931, 935 (5th Cir. 1993), although imposing sanctions on the client is not proper every time an attorney violates Rule 11. Topalian, 3 F.3d at 935 n.3. For example, "sanctioning a client for bad faith claims under Rule 11 is improper unless the client is personally aware of or responsible for any procedure instituted in bad faith." Id.

B.

1.

The court can quickly dispose of the due process arguments. Those charged with a Rule 11 violation must be afforded fair notice of the possible imposition of sanctions and an opportunity to oppose the imposition. Spiller, 919 F.2d at 346. Notice is provided in the rule itself or can be give via personal conversation, an informal telephone call, a letter, or a timely Rule 11 motion. Veillon v. Exploration Services, Inc., 876 F.2d 1197, 1201-02 (5th Cir. 1989). The requisite hearing on the motion does not have to be "elaborate or formal." Spiller, 919 F.2d at 347. "Simply giving a chance to respond to the charges through submission of a brief is usually all that due process requires." Id.

In this court's opinion, the demands of due process were fulfilled in this case. On as many as six separate occasions, Navarro and Chesteen were warned by opposing counsel that defendants would seek sanctions if this action was not dismissed.

The fact that defendants' motions do not always delineate among the activitiess of the charged parties does not in this court's mind lessen the impact of the notice they were given throughout the course of this litigation. The letters precisely identified the alleged sanctionable conduct and advised of defendants' intentions to press the sanctions issue to the limit. As should be gleaned from this court's meticulous recitation of the facts, the extent of each players' roles in this litigation was not difficult to distinguish. Furthermore, Navarro, Chesteen, and Raines have been given ample opportunity to be heard. This matter has been thoroughly briefed by all concerned, and the merits of their respective positions have been carefully scrutinized by the court. Under pertinent Fifth Circuit case law, those circumstances afford a sufficient constitutional hearing.[17] The court therefore turns its attention to the merits of the motions.[18]

2.

a. Jeffery M. Navarro

Having carefully considered the matter, the court finds that Navarro did not commit a Rule 11 violation by filing the initial complaints in this case. Although he admits that he was the one

[17]The court believes that this reasoning is equally applicable to any other due process argument which may have been made in connection with the other sanctions vehicles.

[18]The questions of timeliness and mitigation will be considered in due course.

who had earlier suggested to Raines the possibility of a § 1983 claim, he was not hired to pursue the matter until the day before the applicable statute of limitations was to expire.[19] Navarro had an on-going relationship with Raines and by his account had never had any reason to doubt his client. When that circumstance is coupled with the time constraints surrounding the filing and the general knowledge which Navarro possessed about the events of the car crush, it was not unreasonable for him to rely on Raines' version of the facts and to file the complaint that he did.

The problem, as this court sees it, arises with the filing of the second amended complaint. By that time, five months had elapsed, and Navarro had been warned about the deficiencies of this action on at least three separate occasions.[20] According to Navarro, "[T]he second amended complaint reflects the opportunity which [he] had to develop the factual background of his complaint further, after his forced filing, as a result of which [certain claims] were deleted...." This court does not believe that the second amended complaint offers such a clear reflection. For example, a simple questioning of Raines would have revealed that on the day of the car crush, Raines was interfering with the lawful

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[19]Owens v. Okure, 488 U.S. 235 (1989), was decided less than two months after this cause was initiated. As it affected § 1983 actions in this court, Okure expanded the applicable statute of limitations from one year to three years. Id. at 250.

[20]Navarro characterizes the sanctions letters as mere "posturing."

activities of the bankruptcy trustee, that he himself called the police to the scene, that he had indeed resisted the officers' efforts to restrain him, and that he suffered no significant injury during the course of his arrest. The uncovering of these facts would have led Navarro to the inevitable conclusion that Raines could not, under the prevailing legal standards in effect at that time, maintain a cause of action for unreasonable use of force against Bowles and Maiden. Furthermore, if Navarro had questioned Raines or otherwise investigated his allegation that the individual board members had threatened Raines with arrest and prosecution, thereby interfering with Raines' business, he would have discovered that this allegation had no basis in fact. He would also have learned that Christian took absolutely no part in Raines' arrest and that the conclusory conspiracy charges against Spruill had "neither a well-founded factual basis nor [made] any legal sense." The deficient nature of the legal or factual basis of each of these allegations could have easily been determined with minimal research[21] and without formal discovery tools. Because Navarro failed to conduct a reasonable inquiry into the facts and the law before filing the second amended complaint, he violated Rule 11 and must pay the consequences for that violation. That matter will be considered in due course.

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[21]Navarro admits he "was not seeking to change the law but had a good faith belief that this Section 1983 case was warranted by existing law."

b. George V. Chesteen

Turning then to Chesteen's liability under Rule 11, the court reaches the same conclusion as it did with Navarro as to the initial complaints. Counsel were proceeding under tight time constraints, making a prefiling investigation infeasible; therefore, it was not, as this court has already found, unreasonable to rely on Raines for factual support of the complaint.

Again, however, the court reaches a different conclusion as to the filing of the second amended complaint. The court will not reinterate the reasons underlying that finding as it has thoroughly covered those matters in the previous section. Nevertheless, because Chesteen has made some additional arguments not applicable to Navarro, the court must expand those reasons as they pertain to him.

First, Chesteen cannot find shelter from a Rule 11 violation simply because, as to some of the documents, he was not "the individual...who cause[d] ink molecules to flow onto paper molecules in the form of a signature." The court recognizes the holding of Pavelic & LeFlore v. Marvel Entertainment Group, 493 U.S. 120 (1989), that Rule 11 only authorizes the imposition of sanctions against the individual attorney who signed a document, not against that attorney's law firm, and agrees that as to those documents which Navarro signed listing Chesteen as of counsel,

Chesteen has no Rule 11 liability.[22] And if that were the situation associated with the amended complaint, Chesteen would escape the imposition of Rule 11 sanctions from such an early date. However, the court does not believe that Pavelic extends to the situation at hand where the local attorney signs the document in the name of the out-of-state attorney "with permission." Chesteen's name was not merely typed at the bottom of the complaint, see Giebelhaus v. Spindrift Yachts, 938 F.2d 962 (9th Cir. 1991) (typewritten name is not signature for purposes of Rule 11); White v. American Airlines, Inc., 915 F.2d 1414 (10th Cir. 1990) (same), but was affixed to the document just as surely as if he had placed it there himself. Chesteen has never denied giving Navarro permission to sign his name to the pleadings, nor has he moved to strike them or otherwise to suggest that he disagreed with their contents. Indeed, any of these steps would have insulated him from the Rule 11 liability associated with the filing of the second amended complaint and other documents similarly signed.

Chesteen makes much of Pavelic's characterization of the Rule 11 duties as nondelegable. Under the circumstances of this case, the court does not believe that language affords Chesteen any relief but instead undermines his related argument that he should

[22]The amended version of Rule 11 in its present form allows imposition of "appropriate sanction upon the attorneys, law firms, or parties" that have violated the rule "or are responsible for the violation."

not be held accountable for the violation because he so heavily relied on Navarro's investigation and judgment. Pavelic makes it clear that

> [t]he signing attorney cannot leave it to some trusted subordinate, or to one of his partners, to satisfy himself that the filed paper is factually and legally responsible; by signing he represents not merely the fact that it is so, but also the fact that he personally has applied his own judgment.

Pavelic, 493 U.S. at 125. That argument is further undercut by Chesteen's previous representation to this court that "this case was filed...after two law firms, independent of each other, had made a determination that the case had merit." See Plaintiff's Motion for Reconsideration (Aug. 21, 1991).

Chesteen argues finally that given Raines' desire to continue prosecuting this case, he had a duty to carry out his client's wishes. That argument is easily defeated: an attorney "can escape Rule 11 sanctions by allowing motions for summary judgment or dismissal of meritless claims to go unopposed; he need not independently move to dismiss his own client's claims." St. Amant, 859 F.2d at 384. By the time defendants moved for summary judgment, Chesteen had conducted a considerable amount of discovery which, if it had not already done so, clearly revealed the factual vacuum of this case and which defendants meticulously used to their advantage in support of dismissal. In this court's mind, no ethical violation would have occurred if Chesteen had simply allowed the summary judgment process to reach its natural and

inevitable conclusion. Instead, Chesteen perpetuated the Rule 11 violation by submitting over 250 pages of "spurious arguments [which did] not present a reasonable excuse for his dogged pursuit of these legally [and factually] insupportable claims." Spiller, 919 F.2d at 346. The consequences of his violation will be considered later.

c. J. B. Raines, Jr.

As noted previously, Raines has presented nothing to persuade the court that he should not share in the sanctions to be assessed in this case. Raines knew from the outset of this litigation that he had no facts to support the assertions made in the complaint. While his attorneys can be initially excused for their lack of knowledge, Raines cannot, as he knew the part, or lack thereof, which each of the charged participants played in the incidents leading up to this suit. Certainly, Raines cannot be held to the same standards of legal knowledge as his attorneys; however, that determination and Raines' persistent belief in the correctness of his actions offer him no relief from the obligations imposed by Rule 11, the central purpose of which "is to deter baseless filings and streamline the administration of justice." Spiller 919 F.2d at 345. The price Raines must pay for the violation will be addressed in the next section.

C.

1.

"Under Thomas, once a district court finds a Rule 11 violation, it must impose some sanction. The district court retains broad discretion in fashioning an 'appropriate' sanction; however, that sanction should be the least severe that adequately furthers the purpose of Rule 11." Childs, 29 F.3d at 1027. In determining what is appropriate, it is important to remember that Rule 11 sanctions are "meant [not only] to deter attorneys [and parties] from violating the rule," Thomas, 836 F.2d at 877, but also to be "educational and rehabilitative in character and, as such, tailored to the particular wrong." Id. at 878.

Under the circumstances of this case, the court finds that an award of monetary sanctions, in the form of attorneys' fees and expenses, is the appropriate means of reminding counsel and Raines of their duties under Rule 11 and is the least severe sanction that would sufficiently deter them from repeated violations. This finding is clearly allowed, as the "rule specifically provides that reasonable and appropriate expenses, including attorney's fees, may be awarded as a sanction to the extent the expenses were reasonably caused by a violation of the rule." Childs, 29 F.3d at 1027. Since this lawsuit was lacking in factual and legal foundation from the outset, defendants' expenditure of fees and expenses "were reasonably caused by a violation of the rule." Id. The court therefore turns to its calculation of the award.

2.

Municipal defendants were represented in this matter by Honorable W. Thomas Siler, Jr., and William I. Gault, Jr., of the Phelps Dunbar law firm. Spruill was represented by Honorable H. Russell Rogers. The municipal defendants have requested fees in the amount of $119,247.50, which represents 1,559.25 hours of work by fifteen attorneys and paralegals billed at rates of $50.00 to $105.00 per hour.[23] Spruill has requested fees and expenses in the amount of $27,608.66 ($26,299.23 for attorney's fees--325.4 hours at $75.00 per hour--and $1,309.23 for expenses).[24] Counsel have submitted the requisite affidavits discussing the applicability of the Johnson factors to the instant case and a detailed account outlining the hours expended on the defense of their respective clients and the tasks performed. The municipal defendants have also presented affidavits from several local attorneys who opined that hourly rates between $75.00 and $105.00 are reasonable for defending this type of lawsuit. As noted, Navarro and Chesteen demand that counsel's hours be substantially slashed or completely disallowed on the grounds that defendants failed to request

[23]The municipal defendants have not requested reimbursement of expenses in their motion for sanctions, although their counsel's time sheets clearly reflect that expenses were incurred in the defense of this case.

[24]This total is somewhat lower than that stated by Spruill in his motion and reflects a $10.00 addition error on the time sheets for November, 1988 through April, 1989, and a disallowance by the court of deposition costs in the sum of $1,954.35. That sum is not a covered expense but rather falls under the cost provisions of 28 U.S.C. § 1920.

sanctions in a timely manner or to mitigate their fees and that the amount requested serves only to punish, not to deter.

In determining a reasonable attorney's fee, the court must first calculate the "lodestar" by multiplying the number of hours reasonably spent on the litigation times a reasonable hourly billing rate. Watkins v. Fordice, 7 F.3d 453, 457 (5th Cir. 1993). The court should consider the twelve Johnson factors[25] "when analyzing the reasonableness of the hours expended and the hourly rate requested." Watkins, 7 F.3d at 457. Once the lodestar is determined, it may be adjusted, either upwardly or downwardly, "if the Johnson factors, not included in the reasonable fee analysis, warrant the adjustment." Id. However, the lodestar is presumed reasonable and should be modified only in the exceptional case. Id.

In determining the nature and extent of the attorney's services, the Fifth Circuit's discussion of the first Johnson factor--the time and labor required--is instructive:

> It is appropriate to distinguish between legal work, in the strict sense, and investigation, clerical work, compilation of facts and statistics and other work which can often be accomplished by non-lawyers but which a lawyer may do because he has no other help available. Such non-legal work may command a lesser rate. Its

[25]Johnson v. Georgia Highway Express, Inc., 488 F.2d 714, 717-19 (5th Cir. 1974). Because these factors are well known to every practicing attorney in this circuit, the court finds no reason to enumerate them here; each factor will be considered in due course.

> dollar value is not enhanced just because a lawyer does it.

Johnson, 488 F.2d at 717. In Coalition to Preserve Houston v. Interim Board of Trustees of the Westheimer Independent School District, 494 F. Supp. 738 (S.D. Tex. 1980), appeal dismissed, 450 U.S. 901 (1981), the district court expanded on this concept, stating:

> The Court distinguishes three categories of the type of work performed: (1) strictly legal activities, which include legal research, writing, and court appearances; (2) legally related activities, which include conferences, telephone calls, and other correspondences; and (3) routine administrative activities, which include travel time, clerical work, and compilation of facts and statistics. For purposes of the application of different rates to different types of work, the first category will be referred to as work on the merits of the case; the second category will be called informal communications; and the third category will be referred to as non-legal work.

Id. at 745 -46.[26] Furthermore, fees should not be allowed for hours which were not reasonably expended, i.e., hours which are excessive, redundant, unnecessary, or inadequately documented. Hensley v. Eckerhart, 461 U.S. 424, 432-34 (1983).

In light of the above authorities and this court's experience, the court makes the following conclusions as to each attorney and paralegal employed by the municipal defendants:

> (1) Beginning with Siler, of the 284.5 hours listed, 102.5 hours fit within Category One; 54.25, within Category Two; and 30.5 hours, within Category Three. The

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[26]This approach has been adopted by this court in past decisions. For example, in Shirley v. Chrysler First, Inc., 763 F. Supp. 856 (N.D. Miss. 1991), aff'd, 970 F.2d 39 (5th Cir. 1992), this court categorized plaintiff's requested attorney's fees and elaborated on the Texas court's guidelines:

> Work on the merits entails drafting motions, responses, and a memorandum; legal research and brief writing; preparation of clients for and personal participation in depositions; and conferences with the court. Informal communications are comprised of conferences with opposing counsel, clients, and witnesses; all correspondence involving defense counsel...or the court; and review of motions, responses, orders, [and] opinions....Other than travel, Category 3 is preparation of notices and cover letters, normally performed by a secretary; and review of a cancellation of a pre-trial conference, a simple scheduling matter.

Shirley, 763 F. Supp. at 858 n.3 (quoting Cobbs v. Grenada County, Mississippi, No. WC84-136-S-O, at 12 n.17 (N.D. Miss. Sept. 13, 1989) (unreported opinion)). This method of calculating attorney's fees was recently approved by the Fifth Circuit in Watkins. See Watkins, 7 F.3d at 459 (citing Johnson and Shirley).

court has disallowed 97.25 hours as excessive, redundant, or unnecessary.

(2) Of the 479.25 hours listed by Gault, 163.5 hours fit within Category One; 115.5 hours, within Category Two; and 30.5 hours, within Category Three. The court has disallowed 169.75 hours as excessive, redundant, or unnecessary.

(3) Of the 109.0 hours listed by Victoria Jenkins, 30.75 hours fit within Category One; 39.75, within Category Two; and 5.75 hours, within Category Three. The court has disallowed 32.75 hours as excessive, redundant, or unnecessary.

(4) As to the 29.0 hours listed by F. Corley, 22.0 hours fall in Category One, with 7.0 hours disallowed as excessive, redundant, or unnecessary.

(5) Of the 8.75 hours listed by D. Thomas, 3.0 hours fit within Category One and .5 hours within Category Two, with 5.25 hours disallowed as excessive, redundant, or unnecessary.

(6) Of the .5 hours listed by D. Mockbee, .25 hours fall in Category Two, with .25 hours disallowed as excessive, redundant, or unnecesary.

(7) Of the 3.5 hours listed by W. Selph, 1.25 hours fit within Category One and .25 hours fit within Category Two. The court has disallowed 2.0 hours as excessive, redundant, or unnecessary.

(8) The court has completely allowed the 2.00 hours listed by G. Friedman and the .5 hours listed by S. Fahey. Both amounts fit in Category Two.

(9) As to the 642.25 hours expended by the six paralegals who worked on this case, the court has allowed 423.5 hours as reasonable, with 218.75 hours disallowed as excessive, redundant, or unnecessary.

As to Spruill's attorney, Rogers, the court finds that of the 325.4 hours listed, 151.5 hours fall within Category One; 90.1 hours, within Category Two; and 11.1 hours, within Category Three.

The court has disallowed 72.7 hours as excessive, redundant, or unnecessary.

The court has made such deep cuts in everyone's hours not only because the time devoted to this case was unreasonable under Johnson but also because under Thomas, the non-violating parties have a duty to mitigate "by correlating [their] response, in hours and funds expended, to the merit of the claims." Thomas, 836 F.2d at 879. Although the court finds that notice of the Rule 11 violations were adequately timely and that defendants did all they could to bring the violations to the attention of Navarro, Chesteen, and Raines, it does not believe defendants properly mitigated their expenses under Thomas. The court appreciates defense counsel's obligations to represent their clients vigorously; however, this cause was factually and legally frivolous from its inception, a circumstance which became clearer as the case progressed. In this court's eyes, it was therefore unreasonable and unnecessary to expend over eighteen hundred hours and to utilize ten attorneys and at least six paralegals to defend this suit.

Therefore, giving due consideration to the time and labor involved, the customary fee, the amount involved and the results obtained, the skill required to defend this case, the experience, reputation and ability of the attorneys, and the novelty and

complexity of the issues presented, the appropriate lodestar for each attorney involved is as follows:

(1) Siler--

102.50 hours	x $95.00 per hour =	$ 9,737.50
54.25 hours	x $70.00 per hour =	3,797.50
30.50 hours	x $45.00 per hour =	1,372.50
		$14,907.50.

(2) Gault--

163.50 hours	x $90.00 per hour =	$14,715.00
115.50 hours	x $65.00 per hour =	7,507.50
30.50 hours	x $40.00 per hour =	1,220.00
		$23,442.50.

(3) Jenkins--

30.75 hours	x $90.00 per hour =	$2,767.50
39.75 hours	x $65.00 per hour =	2,583.75
5.75 hours	x $40.00 per hour =	230.00
		$5,581.25.

(4) F. Corley--

22.00 hours x $80.00 per hour = $1,760.00.

(5) D. Thomas--

3.00 hours	x $95.00 per hour =	$ 285.00
.50 hours	x $70.00 per hour =	35.00
		$ 320.00.

(6) D. Mockbee--

.25 hours x $70.00 per hour = $ 17.50.

(7) W. Selph--

1.25 hours	x $75.00 per hour =	$ 93.75
.25 hours	x $50.00 per hour =	12.50
		$ 106.25.

(8) G. Friedman--

2.00 hours x $70.00 per hour = $ 140.00.

(9) S. Fahey--

.50 hours x $70.00 per hour = $ 35.00.

(10) T. Buie, P. Ellis, J. Giddens, V. Parker, R. Spencer, R. Tominello (paralegals)--

423.50 hours x $40.00 per hour = $16,940.00.

(11) Rogers--

151.50 hours x $75.00 per hour =	$11,362.50
90.10 hours x $50.00 per hour =	4,505.00
11.10 hours x $25.00 per hour =	277.50
	$16,145.00.

These calculations result in a total award of $63,250.00 to the municipal defendants and $16,145.00 to Spruill. Although no defendant has requested an enhancement in this case, the court has considered the remaining Johnson factors--preclusion of other employment, imposed time limitations, and undesirability of the case--and finds that none of these factors warrant any upward adjustment in the lodestar. Finally, the court's award in the instant case is in line with awards in similar cases. See, e.g., Mississippi State Chapter Operation PUSH v. Mabus, 788 F. Supp. 1406 (N.D. Miss. 1992) (allowing rates ranging from $80.00 - $115.00 for attorneys with varying levels of experience and $35.00 for paralegals); Shirley v. Chrysler First, Inc., 763 F. Supp. 856 (N.D. Miss. 1991) (allowing hourly rates of $90.00 and $125.00); Martin v. Mabus, 734 F. Supp. 1216 (S.D. Miss. 1990) (allowing hourly rates of $75.00 - $100.00); Beamon v. City of Ridgeland, 666

F. Supp. 937 (S.D. Miss. 1987) (allowing hourly rates of $65.00 - $100.00).

This, of course, does not end the matter, however, for now the court must apportion these amounts among the three violating parties. The court begins with Navarro. During the time that he was involved in this suit, beginning with the filing of the second amended complaint and ending with his withdrawal from this suit, the municipal defendants incurred $48,441.25 in attorney/paralegal fees. Navarro is responsible for one-third of that amount, $16,147.08. During that same period, Spruill incurred $9,462.50 in attorney's fees. Navarro is responsible for one-third of that amount, $3,154.17.

The court turns to Chesteen next. During the time that he represented Raines, beginning with the filing of the second amended complaint and ending with the unsuccessful appeal of this court's summary judgment rulings, the municipal defendants incurred $62,798.75 in attorney/paralegal fees. Adjusting for the liability of Navarro and Raines, Chesteen is responsible for $23,325.83. Spruill incurred $14,950.00 in fees during that same time; Chesteen is liable to Spruill for $5,897.92 of that amount.

Finally, as to Raines, he is responsible for his share of liability from the inception of this suit through the appeal. The fees incurred by the municipal defendants and Spruill total $63,250.00 and $16,145.00, respectively. After deducting for

Navarro's and Chesteen's liability, Raines is responsible for $23,777.09 to the municipal defendants and $7,092.91 to Spruill.

Spruill also seeks expenses in the amount of $1,309.23. This is a reasonable sum. After apportioning the expenses in the same manner as the fees, the court finds that Navarro is responsible to Spruill for $125.83; Chesteen, for $582.65; and Raines, for $600.75.

II. Other Bases for Sanctions/Fees

In addition to Rule 11, defendants variously seek sanctions/fees under 42 U.S.C. § 1988, 28 U.S.C. § 1927, and the court's inherent sanctioning power. Having determined that Navarro, Chesteen, and Raines violated Rule 11 in the prosecution of this case and that the appropriate sanction is an award of defendants' reasonable attorneys' fees, the court does not believe that it is necessary to base its decision on any other ground.

CONCLUSION

Having carefully considered the matter, the court finds that defendants' separate motions for sanctions are well taken and are granted, and defendants are hereby awarded Rule 11 sanctions in the form of their reasonable attorneys' fees and expenses against Honorable Jeffery M. Navarro, Honorable George V. Chesteen, and Mr. J. B. Raines, Jr., as outlined in this opinion.

An appropriate order shall issue.

This _____ day of _____, 1996.

CHIEF JUDGE